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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/556,200 04/21/00 BONDS

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EXAMINER

GUADALUPE, Y

ART UNIT

PAPER NUMBER

2859  
DATE MAILED:

08/27/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trad marks**

# Office Action Summary

Application No.

09/556,200

Applicant(s)

BONDS ET AL.

Examiner

Yaritza Guadalupe

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 6, 12 and 14 and 15 are rejected under 35 U.S.C. 102 ( b ) as being anticipated by Spirg ( US 4,459,046 ).

Spirg discloses a temperature indicator comprising a layer of material ( 12 ) which substantially irreversibly changes from a first appearance to a second appearance in response to exposure to a threshold temperature ( See Column 2, lines 50 – 53 ), wherein a first portion of said layer of material is initially free from exposure to said threshold and has said first appearance, and wherein a second portion ( 14 ) of said layer of material is initially exposed to said threshold temperature and has said second appearance ( See Column 3, lines 4 – 6 ), whereby said first portion and said second portion form a visible pattern of uniform appearance. Spirg also gives the option of irreversible fuses in response to threshold temperature ( See Column 2, lines 35 – 42 ). Spirg discloses an indicator which can be considered a label ( 10 ) including a support surface ( 16 ), an adhesive layer ( 18 ), and where the visible pattern includes

Art Unit: 2859

a selected color or code ( See Column 2, lines 11 – 19 ). Spirg discloses an indicator which is considered to be exposed to said threshold temperature by an indirect thermal contact since mention the possibility of rupture under external forces ( See Column 1, lines 14 – 19 ).

3. Claims 1, 11 and 13 are rejected under 35 U.S.C. 102 ( b ) as being anticipated by Arens (US 4,428,321 ).

Arens discloses a thermally activated indicator including an absorptive layer ( colored stratum layer ) with a first pattern printed thereon, a second pattern ( coating ) with irreversibly fusible material on a surface of the absorptive layer over said first pattern, thereby partially obscuring said first pattern, and wherein said fusible material, upon exposure to a threshold temperature, melts and is absorbed into said absorptive layer, thereby exposing said first pattern to view ( See Abstract and Columns 2, lines 17 – 42 ). Arens discloses an indicator which can be considered to be exposed to said threshold temperature by direct thermal contact.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 7 – 10 are rejected under 35 U.S.C. 103 ( a ) as being unpatentable over Spirg (US 4,459,046 ) in view of Haas et al. ( US 5,719,828 ).

Spirg discloses a temperature indicator as stated in paragraph 2 above.

Spirg does not disclose the visible pattern including text, cross-hatching, parallel dashes, or dots as stated in claims 7 – 10.

Regarding claims 7 – 10 : Spirg discloses an indicator having a visible pattern which can be a particular color or code but does not mention a particular pattern. Haas et al. discloses a patterned indicator reacting to a threshold parameter and displaying a visual indicator which can be selected from text, dots, bar codes, numerals, etc. ( See Figures 1 – 38 ). Therefore, it would

Art Unit: 2859

have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a visible pattern selected from the group disclosed by Haas et al. in the indicator disclosed by Spirg in order to enhance the visibility in the absence of light or longer distances and provide an indicator related to a particular product or season.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Barnes ( US 4,888, 219 ) discloses a temperature indicator providing a visible pattern of uniform appearance ( See Figure 1 ). Seiter ( US 4,057,029 ) discloses an indicator comprising a layer ( 26 ) changing from a first appearance to a second appearance, a first portion and second portion forming the visible pattern, and an adhesive layer ( See Column 2, lines 45 – 48 ). McNeely ( US 4,280,441 ) discloses an indicator undergoing a uniform visible pattern change. Ram et al. discloses a device comprising a layer ( 12 ) changing from a first appearance to a second appearance when exposed to a threshold temperature, the indicator consisting of a visible pattern such as a text ( See Figure 1 ), and an adhesive layer ( 13 ).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe whose telephone number is (703)305 -5676. The examiner can normally be reached on 8:00 AM - 4:30 PM.

Art Unit: 2859

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7722 for regular communications and (703)308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.



Y. Guadalupe  
August 22, 2001

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